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Special Political and Decolonization Committee (Fourth Committee)

Summary record of the 5th meeting
Held at Headquarters, New York, on Friday, 10 October 2003, at 3 p.m.

Chairman: Mr. Loedel ..... (Uruguay)
Later: Ms. Ognjanovac (Vice-Chairman) ..... (Croatia)
Later: Mr. Loedel (Chairman) ..... (Uruguay)

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* Items that the Committee has decided to consider together.

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03-55204 (E)

Agenda item 12: Report of the Economic and Social Council* (*continued*)

Agenda item 90: Offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories* (*continued*)

The meeting was called to order at 3.10 p.m.

Agenda item 19: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Territories not covered under another agenda item)

Hearing of petitioners (continued) (A/C.4/58/4 and Add.1-9)

Question of Western Sahara (continued)

1. *At the invitation of the Chairman, Mr. Aurrekoetxea (Member of the Basque Parliament) took a place at the petitioners' table.*

2. **Mr. Aurrekoetxea** (Member of the Basque Parliament and President of the Parliamentary Intergroup "Peace and Freedom in Sahara") said that, 120 years after the infamous Berlin Conference, at which the great Powers had divided up Africa among themselves, most African countries had now regained their independence. The existence of the Fourth Committee provided a clear illustration of and abundant testimony to that historic process. And yet a part of Africa that had been given to Spain remained under foreign occupation, and its population was still unable to decide its own destiny or freely dispose of its national wealth.

3. The problem of Western Sahara was the main challenge remaining unresolved in the sphere of decolonization. The international community and the United Nations could not stand idly by before the plight of the Saharan people, whose territory had been invaded by the Moroccan army. Action must be taken to ensure that the fait accompli of the occupation was brought to an end.

4. He therefore welcomed the efforts undertaken by the Secretary-General and by his Personal Envoy for Western Sahara. Particularly welcome, too, was the approach adopted by the POLISARIO Front, whose ceaseless collaborative efforts had made it possible to move towards settlement proposals offering the prospect of a just, rapid and peaceful solution to the conflict.

5. Morocco's occupation of Western Sahara had brought terrible consequences, especially in the political, social, and economic fields. The main victims of those consequences were the tens of thousands of men and women who had endured and continued to endure the savage repression of the Moroccan military occupation, which was enforced through forced disappearances, torture, and summary judgements, as well as an endless and varied litany of other horrors.

6. Hundreds of thousands of people had been forced to flee their country since 1975. Most now lived in refugee camps near Tindouf, in Algeria. Anybody familiar with those camps could not fail to be appalled by the situation in which the international community kept the victims of a cruel and unjust situation. Various reports, issued by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the World Food Programme (WFP), as well as by the non-governmental organizations working in the camps, had recognized that for 28 years the refugees in the camps had been denied regular access to drinking water and deprived of an adequate diet. The reports had also made clear that progress achieved in areas such as sanitation, education, or policies on gender equality had been due more to the determination and organization of the Saharawi people than to the assistance of the international community.

7. The repeated and urgent appeals made by the Security Council in its latest resolutions on Western Sahara, following the relevant recommendations of the Secretary-General, and the WFP reports, were testimony to the inadequacy of the aid provided. For example, on 25 May 2003, WFP had reported a serious risk that supplies of basic food stocks would run out. Sadly, however, that was not a new situation: the first WFP aid had not arrived until 1996, and its aid programmes had not been fully implemented. According to WFP reports covering the period 2000 to 2004, the refugees had suffered from chronic dietary imbalances, 35 per cent of children had suffered from malnutrition, and 43 per cent of women of childbearing age had suffered from anaemia. There was no doubt that, had it not been for the efforts of the POLISARIO Front, the Government of Algeria, and other friendly Governments, the genocide of the Saharawi people would already be complete.

8. Guaranteeing the survival of the civilian population was the essential prerequisite for ensuring that the Saharawi people could exercise their legitimate right to self-determination. The Saharan refugees must, therefore, be provided with decent living conditions.

9. *Mr. Aurrekoetxea withdrew.*

10. *At the invitation of the Chairman, Ms. Navarro (Member of the Human Rights Committee of the General Council of the Spanish Legal Profession) took a place at the petitioners' table.*

11. **Ms. Navarro** (Member of the Human Rights Committee of the General Council of the Spanish Legal Profession) introduced the report of the legal observation mission relating to the Moroccan authorities' trial of Saharan political prisoners in Western Sahara. Cognizant of the long-standing human rights situation in Western Sahara (until 1975 Spanish Sahara) and out of concern for the respect and defence of the fundamental rights of detainees and prisoners, the Human Rights Committee of the General Council of the Spanish Legal Profession had established, in accordance with the guidelines applicable to international legal observation missions, a mission of Spanish jurists to follow as independent observers the summary trials of the Western Saharan political prisoners held in El Aaiun, capital of Western Sahara, to determine whether rights had been respected and the sentences fair.

12. The observation mission had begun in 2002 and had ended in 2003. The delegation had encountered numerous obstacles to the performance of its mission and had not secured the desired cooperation of the Moroccan authorities. The fairly cordial initial welcome had gradually turned into hostility, to the point where the members of the delegation had no longer been allowed to sit in the courtroom or to benefit from the services of an interpreter.

13. Regarding the oral evidence, the conditions of a fair trial had not been met: a deployment of police and soldiers had intimidated the local population and the defence lawyers and had discouraged any debate; attempts had also been made to intimidate the members of the mission. The courtroom appeared to be based on the model of medieval justice, in which the accused had remained standing, directly facing the magistrates seated some two metres above them; while the prosecutor and the clerk of the court had sat at the same level as the magistrates, the defence lawyers had been placed below with the defendants and the public, which had put the defence at a physical disadvantage.

14. She then submitted a lengthy and detailed list of the violations of the rights of the detainees and defendants, and said that the process had been vitiated by countless defects and omissions, in breach of the provisions of the Moroccan Penal Code applied in Western Sahara by the Moroccan authorities. The police had obtained evidence illegally by means of torture and ill-treatment, forcing the accused to sign statements prepared in advance. The detainees had been kept in prison illegally and incommunicado and prohibited from communicating even with a doctor. The fact of their detention had been denied and the rights of the defence had been violated. The principle of debate had not been respected. The imbalance between the types of evidence the defence had been permitted to present and those permitted to the prosecutor had run counter to the stance taken on the subject by the Supreme Court of Morocco. The principle of legality had been constantly violated and there had been no grounds for many of the sentences handed down. The principle of presumption of innocence had not been respected and many of the sentences had been unlawful. Attempts had been made to conceal the political nature of the trials of the Saharan political prisoners and make them look like common criminals; the detainees had therefore been prosecuted as common criminals so as to avoid the requirement to apply the international regulations governing the treatment of "prisoners of conscience". The safety of the Saharan prisoners had not been ensured, nor had they been treated like other prisoners. There had been flagrant violations of the norms prescribed in the international human rights agreements, conventions and treaties ratified by Morocco.

15. Regarding the court itself, the actions of the judges and magistrates had been blatantly lacking in impartiality both during the proceedings and during the weighing of evidence.

16. Where the police was concerned, the Saharan population's allegations that Moroccan police officers had committed many acts of violence and torture had been unsuccessful because they had either been rejected or had not been followed up. During the trial, the mission had observed a disproportionate and unwarranted police presence. Members of the mission had been followed and some had even been detained. The mission had also been informed that the safety of its members could not be guaranteed.

17. Lastly, the manner in which the Saharan prisoners had been tried had been quite simply unjust, especially since the United Nations Office of Legal Affairs had already determined, in 2001, that the 1975 Madrid

Agreements had not transferred sovereignty over Western Sahara to, or conferred the status of administering Power on, any of the signatory States.

18. *Ms. Navarro withdrew.*

19. *At the invitation of the Chairman, Ms. Cabrera (Member of the Spanish Parliament) took a place at the petitioners' table.*

20. **Ms. Cabrera** (Member of the Spanish Parliament) said that the Western Sahara issue continued to give rise to wide-ranging debate in Spain; over 200 initiatives and files on the matter had been presented in the Spanish Congress and Senate between 2000 and 2004 and their number had increased when Spain had been designated a non-permanent member of the Security Council.

21. In 2002, many town councils had supported the creation of a Solidarity Committee within the Spanish Federation of Town and Provincial Councils and had supported a motion based on two fundamental points: defence of the Peace Plan approved by the United Nations and accepted by both parties, and the immediate holding of a referendum on the self-determination of the Saharan people, as the only formula for the prompt achievement of a just and lasting solution to the conflict; and rejection of the Moroccan Government's strategy of boycotting the Peace Plan and, more particularly, of the "third way of autonomy", a veritable trap to secure annexation of Western Sahara.

22. Among the myriad measures and activities of the Spanish Congress and Senate to promote the Peace Plan, a bill to that end had been passed in 2000. In March 2001, the Senate had passed a motion calling for efforts to achieve peace in the Sahara, pursuant to the United Nations resolutions; and in February 2002, the Congress and Senate had unanimously passed a bill supporting the United Nations resolutions, the Peace Plan and the holding of the referendum.

23. The Spanish Government would continue to support the efforts of the United Nations, the Secretary-General and his Personal Envoy to find a solution to the conflict. It would support any viable solution agreed between the two parties in accordance with international law, in the sure knowledge that regional stability could be guaranteed only on the basis of consensus. Her Government did not recommend the withdrawal of MINURSO, which was doing essential humanitarian work and playing a vital role in sustaining the ceasefire and whose presence would be necessary for the implementation of any of Mr. Baker's proposals. It was of the opinion that the only framework so far approved by both parties was the peace plan which envisaged the holding of a referendum. It was important to draw attention to the humanitarian aspects of the conflict, aside from any political solution.

24. Her Government was aware that Spanish society was sensitive to the problems of the region and had not forgotten Spain's historical responsibility in the Western Sahara conflict, as the colonial Power until 1975, and as a result of the shameful handover of the territory to Morocco and Mauritania under the so-called Madrid Agreement of 1975 under the last Franco Government. It must not be forgotten that 30 years later almost 200,000 Western Saharans still lived in the Tindouf refugee camps and would remain there until the Western Sahara problem was resolved.

25. Respect for the peace plan and the holding of a referendum were the only way to reach a lasting solution to the conflict. The most recent Baker plan was a possible solution, because it took into account the interests of both parties and had been accepted by the international community.

26. *Ms. Cabrera withdrew.*

27. *At the invitation of the Chairman, Mr. Rodriguez Carrión (Professor of International Law at the University of Málaga (Spain)) took a place at the petitioners' table.*

28. **Mr. Rodriguez Carrión** (Professor of International Law at the University of Málaga (Spain)) recalled the importance of the Committee's work in supporting peoples under colonial domination in the exercise of their right to self-determination. An abstract principle had thus been formulated in forceful and detailed terms: obligation of all States to refrain from in any way using force to deprive those peoples of their right to self-determination, freedom and independence; duty of all States to facilitate the exercise of that right and not oppose it for economic, political or other reasons; right of peoples to ask for and obtain necessary assistance from other States and international organizations in order to exercise their right to self-determination; legitimacy of the use of force by those peoples who could not exercise their right through peaceful means, as the International

Court of Justice had asserted in its landmark decision of 1986; recognition of the right to self-determination as a fundamental human right, as proclaimed in the 1966 International Covenants on economic, social and cultural rights and civil and political rights.

29. Despite the Committee's notable successes, many problems remained to be solved, including the most difficult one: the right of the people of Western Sahara to self-determination. Since Spain had informed the United Nations in 1975 that it wished to renounce its obligations as administering Power of that Territory, the Kingdom of Morocco had occupied the Territory, but was not the recognized administering Power, in spite of what certain documents stated.

30. Morocco could not invoke any right to occupy the Territory. The International Court of Justice, in its advisory opinion of 1975, had already clearly declared that, when colonization had taken place at the end of the nineteenth century, the area had not been *terra nullius*, there had been no sovereignty ties between the Territory and the Kingdom of Morocco and any links which might have existed could not affect the right of the Saharan people to self-determination. The illegal and illegitimate Moroccan occupation had provoked a bloody confrontation between the Saharan people and the Kingdom of Morocco from 1975 to 1991, following which various plans had been proposed to bring about a ceasefire and the holding of a referendum on self-determination.

31. After briefly reviewing the steps leading up to the Baker peace plan, Morocco's opposition to that plan and the new peace plan, he said that it would be unjust and unacceptable to give equal weight to the positions of the two parties, when one of them was calling for recognition of its right to self-determination whereas the other was seeking to impede the exercise of that right without any legal justification. As a result, the exercise of a basic and integral element of contemporary international law, recognized as an imperative norm by the international community as a whole, would depend on an agreement with a State whose territorial integrity was being affected, as declared by the International Court of Justice in 1975. Accepting that it was impossible to reach an agreement acceptable to both parties would mean postponing any settlement until a dangerous situation was created either by the physical or moral disappearance of one of the parties (the weakest party, the Saharan population, despite enjoying the protection of the imperative norm concerning the right to self-determination), which would discredit the international legal system, or by a return to open conflict. With all due respect to its authors, the peace plan for the self-determination of the people of Western Sahara was a magnificent plan, which specifically mentioned the word "self-determination" in its title; judging by its content, however, a more appropriate title would have been "Peace plan for thwarting the Western Saharan people's right to self-determination".

32. In closing, he stressed that the Committee, although its real powers were limited, had a very important role to play in ensuring respect for the principles enshrined in the Charter of the United Nations.

33. *Mr. Rodriguez Carrión withdrew.*

34. **Ms. Ramos** (American Association of Jurists) said that her association was firmly convinced of the need to combat imperialism and colonialism, and thus of the need to ensure that Western Sahara could exercise its right to self-determination. In that regard, the holding of a free and transparent referendum under the supervision of the United Nations and international observers, as provided for in the Settlement Plan agreed in 1990 by the United Nations and the Organization of African Unity (OAU), and accepted by all parties to the conflict, seemed the most appropriate solution. On the other hand, the new plan put forward by James Baker in July 2003 might be dangerous because it appeared to deny the Saharan people the right to self-determination and might lead to the resumption of the armed conflict, which could spread throughout the region and prove particularly bloody.

35. As regards the territorial integrity and natural resources of Western Sahara, the legality of the contracts signed by Morocco with the United States oil company Kerr-McGee du Maroc Ltd. and the French firm TotalFinaElf E&P Maroc, for the exploitation of Western Sahara's oil wealth, was highly questionable, as indicated by the United Nations Legal Counsel in his January 2002 report to the Security Council (S/2002/161).

36. The 1975 Madrid Agreement, which established, without the consent of the Saharan people or the United Nations, a temporary tripartite administration in Western Sahara, had not had the effect, as the Legal Counsel had also indicated, of transferring sovereignty over the territory of Western Sahara or conferring the

status of administering Power on any of the signatories of the Agreement. It was thus clear that Morocco's occupation of Western Sahara was contrary to international law, and that the only applicable laws were the advisory opinion of the International Court of Justice, of 16 October 1975, and General Assembly resolution 1514 (XV) on the granting of independence to colonial countries and peoples.

37. Lastly, she would remind the Committee of the harsh living conditions of the more than 160,000 Saharans forced to take refuge in the Tindouf camps following Morocco's occupation of Western Sahara.

General debate on all items related to decolonization

Agenda item 19: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (Territories not covered by another agenda item) (*continued*) (A/58/23 (Part II), chap. VIII to X, A/58/23 (Part III), chap. VII (D-F), A/58/171; Aide-mémoire 1/03)

Agenda item 87: Information from Non-Self-Governing Territories transmitted under Article 73 *e* of the Charter of the United Nations (*continued*) (A/58/23 (Part II), chap. VII, A/58/23 (Part III), chap. XII (A), A/58/69)

Agenda item 88: Economic and other activities which affect the interests of the peoples of the Non-Self-Governing Territories (*continued*) [A/58/23 (Part II), chap. V, A/58/23 (Part III), chap. XII (B)]

Agenda item 89: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations (*continued*) (A/58/23 (Part II), chap. VI, A/58/23 (Part III), chap. XII (C), A/58/66, A/C.4/58/CRP.1)

Agenda item 12: Report of the Economic and Social Council (*continued*) (A/58/23 (Part II), chap. VI, A/58/23, chap. XII (C), A/58/66, A/C.4/58/CRP.1)

Agenda item 90: Offers by Member States of study and training facilities for inhabitants of Non-Self-Governing Territories (*continued*) (A/58/71)

38. **Mr. Ghartimagar** (Nepal) said that the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/58/23) offered a solid foundation upon which to work towards the goals of decolonization, but that it was imperative that the Special Committee speed up its work in order to accomplish the objective of the Second International Decade for the Eradication of Colonialism by 2010.

39. The cooperation given by the Government of New Zealand during the visit of the Special Committee to Tokelau in 2002 and the United Kingdom's initiative to hold a regional seminar in Anguilla in 2003 augured well with respect to the administering Powers' desire for openness and transparency with respect to the Non-Self-Governing Territories. However, the administering Powers had by no means kept all the promises they had made with respect to improving the living standards of the peoples in the Territories. Moreover, they were far from meeting their obligations under the Charter of the United Nations to promote the interests of those peoples and to respect their culture and their aspirations. Nepal therefore called on them to redouble their efforts in that regard and to cooperate with the Special Committee, so that it could carry out its mandate effectively. It also urged the international community to preserve the sanctity of the Territories and to ensure that their inhabitants were given as much freedom as possible to administer their own affairs, until they either became independent or achieved self-governance.

40. **Mr. Fils-Aimé** (Haiti) said that, as a former colony which had become independent in 1804, Haiti had always been a strong defender of emancipation movements and maintained a keen interest in progress made by the Special Committee in implementing the Declaration on the Granting of Independence to Colonial Countries and Peoples. He therefore called on the administering Powers of the Non-Self-Governing Territories to cooperate with the Special Committee with a view to promoting the decolonization process.

41. The willingness to cooperate with the Special Committee shown by the United Kingdom during the regional seminar held in Anguilla in May 2003 and the improvement in relations between New Zealand and the Tokelau Islands were encouraging. In that context, he stressed the importance of the Special Committee's regional seminars in and missions to the Non-Self-Governing Territories.

42. With regard to Western Sahara, his delegation welcomed the most recent peace plan proposed by the Secretary-General and his Personal Envoy. It hoped that the parties would redouble their efforts to achieve a peaceful and lasting settlement of that conflict.

43. Political freedom of any kind, in order to be viable, must be rooted in a sustainable socio-economic base. Given the size of the Non-Self-Governing Territories and the fragile nature of their environments, the administering Powers had a responsibility to promote their development by refraining from exploiting the Territories' natural resources, depriving their populations of their right to ownership of those resources or taking any coercive measures, in accordance with the relevant resolutions of the General Assembly.

44. **Mr. Kafando** (Burkina Faso), recalling that much remained to be done in the area of decolonization, called on the administering Powers and the leaders and people of the Non-Self-Governing Territories to increase their cooperation with the United Nations with a view to achieving mutually acceptable political solutions for those Territories. All efforts to that end would be supported by Burkina Faso, which therefore welcomed the role played by the United Kingdom at the first regional seminar held in a Non-Self-Governing Territory in Anguilla in May 2003. Consultations of that type should be encouraged, because they provided an appropriate framework for decolonization.

45. With regard to Western Sahara, he welcomed the efforts of the Secretary-General and his Personal Envoy to bring about a just and acceptable settlement of that conflict, which had existed for more than 20 years. He welcomed in particular the parties' observance of respect for the ceasefire and noted with approval their initiative to exchange prisoners. The latter gesture testified to their determination to find a solution to the crisis, and he called for an increase in direct contacts between them.

46. The first Baker plan, which would have granted broad autonomy to the Western Sahara population as a whole, had been supported by his delegation, which did not wish to endorse an approach that might not only provoke new clashes between the protagonists but also destabilize the entire subregion. Unlike that plan, the most recent self-determination plan proposed by the Personal Envoy of the Secretary-General, in its transitional phase at least, did not seem to take into account all components of the Saharan population. Such an approach was contrary to Security Council resolution 1495 (2003), which stressed the need to seek a negotiated solution based on consensus, and indeed had not been approved by one of the parties to the conflict for that very reason. Accordingly, he called on all the parties to refrain from any action which might jeopardize future negotiations.

47. *Ms. Ognjanovac (Croatia), Vice-Chairman, took the Chair.*

48. **Mr. Touré** (Guinea), recalling that only 16 Territories remained on the list of Non-Self-Governing Territories, welcomed the progress made and encouraged the Special Committee to continue its efforts so that the 16 Territories in question could exercise their inalienable right to self-determination by the end of the Second International Decade for the Eradication of Colonialism.

49. With regard to outstanding agenda items, he said that, as the report of the Special Committee (A/58/23 (part III)) indicated, progress had been made towards settling the question of the Tokelau Islands and the constitutional process under way in some Non-Self-Governing Territories in the Pacific was encouraging. As for Western Sahara, his delegation supported Security Council resolution 1495 (2003), which stressed the need for a negotiated political solution leading to a mutually acceptable agreement and therefore believed that the Committee should recommend that the General Assembly encourage the parties to negotiate such a solution within the context of the mandate given to the Secretary-General and his Personal Envoy by the Security Council. In addition, with regard to the revitalization of the work of the General Assembly, he was of the opinion that the Committee should continue its work until colonialism was totally eradicated.

50. **Mr. Okio** (Congo) said that, judging by the report of the Special Committee, there was still much work to be done in the Non-Self-Governing Territories to achieve the final objective, the eradication of colonialism. That served to underscore the important role played by the Committee and the Special Committee, even if that role was to be reviewed as a result of the general reform being undertaken by the United Nations.

51. Three years after the start of the Second International Decade for the Eradication of

Colonialism, little had been done to implement its Plan of Action, with the exception of the successful decolonization of Timor-Leste. Although the case-by-case approach adopted by the Special Committee in implementing the Plan of Action was reasonable, it could succeed only if concrete measures were taken to accelerate economic and social progress in the Non-Self-Governing Territories, with the full cooperation of the administering Powers, some of which had begun to give encouraging signals in that regard. His delegation hoped that the growing cooperation would lead to positive and sustainable measures for the emancipation of the peoples of the Non-Self-Governing Territories.

52. Since the unique geographical, demographic and social characteristics of most of the 16 Non-Self-Governing Territories could hinder the exercise of the right to self-determination in those Territories, efforts should be made to better coordinate, at the international level, the implementation of the plan of action for the Second Decade and to streamline the working methods of the Special Committee. To that end, as the regional seminar held in Anguilla had shown, the people of the Non-Self-Governing Territories needed to be informed about the various possibilities associated with the exercise of the right to self-determination. Account should therefore be taken of the relevant informational and training activities, as the Department of Public Information had begun to do by adopting a number of measures and preparing others. In addition, since visiting missions were the best way to assess the situation of the Non-Self-Governing Territories and to enable the United Nations to better assist their populations, they should take place more frequently, in accordance with the wishes of the populations in question.

53. In his report (A/58/171), the Secretary-General provided an update on the question of Western Sahara, where the settlement process had ground to a halt. The parties involved were urged to make an immediate commitment to seek a negotiated political solution of the basis on the principles enshrined in the Charter and the relevant resolutions of the General Assembly and the Security Council. The Saharan people, like the people of the other Non-Self-Governing Territories, should be allowed to exercise their right to self-determination.

54. **Mr. Baltazar** (Mozambique) said that Mozambique continued to support the work of the Special Committee and all regional initiatives aimed at furthering the decolonization agenda. In that connection, he wished to support those delegations that had welcomed the convening of the regional seminar in Anguilla and expressed the hope that similar initiatives would be taken in other regions, as they served to raise the awareness of the people of those Territories about their right to self-determination.

55. As far as Western Sahara was concerned, he took note with appreciation of the Secretary-General's report to the Security Council (S/2003/565) and his personal commitment to the search for an acceptable and lasting solution to the conflict. The time had come for the parties to settle their dispute by accepting the new peace plan drafted by Mr. Baker, in particular the holding of a referendum in Western Sahara. Mozambique stood ready to lend its support to the achievement of that goal.

56. **Mr. Niang** (Senegal), referring to the question of Western Sahara, said that his country continued to suffer on account of the situation in that Territory, not only because of its links with Morocco but also because of the political, social and human problems created by the conflict, which could, in the long run, hinder the harmonious development of the Maghreb. He called for a fair and lasting settlement of the question and, in particular, welcomed the fact that the Secretary-General and his Personal Envoy were sparing no effort to find a negotiated political solution.

57. At the current stage of negotiations, it would be useless to attempt to impose on the parties a solution whose only merit was that it would put an end to an issue that had swallowed up considerable sums of money. In order to find the desirable compromise solution, the Committee must continue to show maturity, patience and selflessness and avoid resorting to formulas or mechanisms which would undermine its credibility and the continuation of its mandate. The parties must continue with the negotiations in a resolute manner in order to maintain the ceasefire, resolve once and for all, with the support of the Red Cross, the pending humanitarian issues, in particular the fate of prisoners of war, and reach a fair and lasting settlement to the conflict.

58. **Mr. Lamba** (Malawi) said that Malawi fully supported the right to self-determination, which was one of the fundamental freedoms that should be freely exercised. It welcomed the cooperation of the administering Powers with the Committee and noted

with satisfaction that constructive dialogue was taking place in many areas of the world. He referred in particular to the seminar on decolonization held in May 2003 in the Non-Self-Governing Territory of Anguilla with the cooperation of the administering Power. He was convinced that dialogue was the way to reach acceptable solutions in the areas of self-determination and independence.

59. He was deeply concerned that no further progress had been made on the question of the independence of Western Sahara, the most recent lamentable chapter in the history of colonialism in Africa. The delay in holding the referendum provided for in the settlement plan was surely a violation of the rights of the people of Western Sahara, who had waited so long to discover the fate of their land. He appealed to both parties to respect the settlement plan, the recommendations made by Secretary-General's Personal Envoy in the peace plan and all the relevant resolutions in order to reach a solution which would be acceptable to all the parties concerned, including the international community.

60. The Second International Decade for the Eradication of Colonialism had begun in a very positive manner with the granting of independence to Timor-Leste. He hoped that, during the Second Decade, it would be possible to resolve the majority of issues relating to decolonization and to grant independence to the remaining Non-Self-Governing Territories.

61. *Mr. Loedel (Chairman) resumed the Chair.*

62. **Mr. Bennouna** (Morocco) said that a final and lasting settlement of the dispute over the Moroccan Sahara would have to be found by working out a negotiated political solution between the two neighbouring countries, Morocco and Algeria. The search for a realistic and lasting solution that would ensure the stability of the Maghreb region and its component States required that the parties to the dispute clearly reveal their expectations. While Morocco clearly and unambiguously defended its sovereignty over its entire national territory, it would be desirable for Algeria to clarify what it referred to as its strategic interests. The self-proclaimed group that called itself POLISARIO could not claim international legitimacy since it was violating that legitimacy by its systematic refusal to allow the Office of the High Commissioner for Refugees to carry out a census of refugees in the camp of Tindouf on Algerian territory and particularly by its crimes committed against Moroccan prisoners, as revealed in the report of the France Libertés Foundation. Algeria was trying to hide its so-called strategic interests under a discreet veil of respect for the principle of self-determination.

63. Inasmuch as the Secretary-General and his Personal Envoy had concluded that implementation of the 1991 settlement plan was impossible, Morocco had embarked on a search for a political solution and had accepted to negotiate on the basis of the framework agreement presented in June 2001. However, Algeria and POLISARIO had rejected those initiatives loudly and clearly, thus demonstrating, if there was still any need, that their real objective was not the search for a compromise solution but rather the exclusive satisfaction of geopolitical interests, as had been plainly revealed by the President of Algeria when he had proposed to Mr. Baker on 2 November 2001 that the Territory should be purely and simply partitioned in order to gain access to the Atlantic Ocean.

64. In July 2002, the Security Council had in its resolution 1429 (2002) requested the Personal Envoy to again propose a political solution that took into account the views expressed by the parties. However, the parties had not had an opportunity to discuss the draft peace plan submitted to them in January 2003, either with each other or with the Personal Envoy. It was obvious that, where profound differences persisted, one could not do without negotiation in the effort to reach a political solution. Fortunately, the Council had in its resolution 1495 (2003) of 30 July 2003 finally re-established the natural order of things in conformity with Chapter VI of the Charter by stressing the need for the parties' agreement before any proposal could be endorsed.

65. Morocco wished to solemnly reaffirm its willingness to explore, in good faith, ways and means of finding a just, realistic and lasting political solution. As far as the substance of the question was concerned, Morocco would always negotiate with the necessary flexibility a status that would allow institutions democratically elected by "all the inhabitants and former inhabitants of the Territory" to freely manage their own local affairs, as proposed by Mr. Baker in February 2001.

66. The draft plan proposed by Mr. Baker would necessarily have to be reviewed and corrected, mainly where it excluded the large majority of the population

living in the south from the administration of local institutions. The draft plan was a work in progress whose content would have to undergo the necessary modifications in order to meet the obligation established in General Assembly resolution 57/135 of 11 December 2002 to seek a mutually acceptable political solution.

67. Algeria had chosen to submit a draft resolution and depart from the tradition of dialogue in the Fourth Committee. In so doing, Algeria risked stirring up antagonisms in the Maghreb and endangering the search for a political solution negotiated under the auspices of the Secretary-General and his Personal Envoy.

68. Morocco, for its part, reiterated its willingness to arrive at a consensus text that took note of the Personal Envoy's proposal and encouraged the parties to pursue their discussion with the United Nations in a spirit of openness and search for compromise. As recalled by His Majesty King Mohammed VI, Morocco vigorously reaffirmed its commitment to the Maghreb project in all its strategic dimension, economic virtue and human and cultural scope.

69. In conclusion, he wished to reiterate again and again the obligation to release the oldest prisoners of the world, who were languishing in the concentration camps of Tindouf, while their jailers had the nerve to call for the implementation of international law.

70. **Mr. Baali** (Algeria), speaking in exercise of the right of reply, wished to re-establish some truths after the statement by the representative of Morocco, in which the absurdities were equalled only by the distortions. Morocco was not a victim but an aggressor which had invaded Western Sahara in 1975, subjugated its people and denied them their right to self-determination. Western Sahara was a problem of colonization, since Western Sahara was on the list of Non-Self-Governing Territories and Morocco was the source of the problem. Algeria had always supported the principle of the right of peoples to self-determination and it had therefore supported Timor-Leste. Its position was consistent and it could therefore not remain silent with regard to Western Sahara. Morocco had referred to mysterious strategic interests that supposedly drove Algeria to support Western Sahara. Those geopolitical interests were purely and simply a figment of Morocco's imagination.

71. Morocco claimed to be willing to settle the problem but it was Morocco that was responsible for the delays: it had first signed, then rejected the settlement plan. The Security Council had recently unanimously adopted a peace plan but Morocco was rejecting it. In the past, Morocco had demanded the right for Moroccan settlers in Western Sahara to participate in the referendum; yet once that right had been granted under the peace plan, Morocco was rejecting the plan as unacceptable. In point of fact, Morocco wanted the referendum options to be integration or integration, always in the context of Moroccan sovereignty. Morocco no longer wanted a referendum because it had realized that the referendum would lead to the independence of the Territory of Western Sahara, which Morocco wanted to avoid at all cost. In that context, one wondered what Morocco's "willingness" could mean.

72. The Ambassador of Morocco had raised another matter: the Moroccan prisoners held by the Frente POLISARIO. Morocco's interest in the prisoners of war was new, inasmuch as Morocco had in the past denied the very existence of such prisoners. Morocco was now isolated and was merely seeking a pretext to distract international attention. In its resolution 1495 (2003), the Security Council referred to the peace plan, which called for the immediate release of the prisoners. However, Morocco alone had rejected the plan. Instead of raising obstacles to the implementation of the peace plan and feeling sorry for the prisoners held in Tindouf, who were in contact with the Office of the High Commissioner for Refugees, Morocco would do better to reflect on its share of the responsibility for the current situation and show concern also for the humanitarian tragedy that had befallen the Saharans, both the refugees and those who had disappeared.

73. Finally, Morocco had referred to the report of the France Libertés Foundation. However, nobody gave any credence to that report, as it was full of untruths. As an illustration of the unreliable nature of the information in the report, he noted that the report claimed that two or three Moroccan prisoners were being buried each night since 1998 as a result of torture inflicted on them. A quick calculation would show that between 17,000 and 25,000 prisoners would thus have died over the past 20 years. It was, however, well known that the total number of prisoners of war counted by the Office of the High Commissioner for Refugees amounted to about 2,300. He wondered how

the representative of Morocco could accept such fabrications on the part of France Libertés.

74. **Mr. Bennouna** (Morocco), referring to the statement just made by the representative of Algeria, wished to point out that Algeria had no monopoly on kind-heartedness. Morocco had also supported Timor-Leste and self-determination. Morocco had assisted Algeria in its fight for independence; Morocco had fought for Algeria; Morocco had refused to negotiate any kind of agreement on the Sahara until Algeria had won its sovereignty. Moroccans had died for the independence of Algeria; Algerians had studied in Morocco. Algeria accused Morocco of distorting the facts, but Algeria was itself distorting them. The Security Council had neither approved nor endorsed the peace plan. As for the prisoners, there was a real tragedy taking place on Algerian soil. That tragedy should be taken up by an international criminal court. Algeria's reply had been emotional because the dispute between Morocco and Algeria had deep psychological roots.

75. **Mr. Baali** (Algeria) said that there was nothing of substance to rebut and that the statement by the representative of Morocco needed no comments from him.

The meeting rose at 5.40 p.m.